

HUMAN RESOURCES DIVISION CIVIL SERVICE UNIT

GENDER-BASED SELECTIVE CERTIFICATION

Massachusetts General Laws, Chapter 31, § 21, provides that the Personnel Administrator may limit eligibility for appointment to any civil service position to either male or female persons if the duties and responsibilities of such position clearly and unequivocally so require.

Requests for such gender-based selective certifications are carefully reviewed by both the Human Resources Division (HRD) and the Massachusetts Commission Against Discrimination (MCAD) to ensure that such gender based selective certification is valid and job-related.

To initiate HRD review of a gender-based selective certification request, the appointing authority must file a completed gender-based selective certification questionnaire, a copy of which is included here, documenting such need. The completed questionnaire is then analyzed by HRD, and, if the request appears to be justified, the request must be submitted to MCAD for its recommendations. The MCAD has indicated that it will require sufficient information to establish that the employer has a bona fide occupational qualification ('BFOQ') to justify the use of single sex hiring practices. The employer must explain the reasons for hiring one gender in particular and must provide specific fact-based information.

The MCAD had indicated that it will require **three types** of information in a BFOQ analysis:

1. The factual basis for believing that all or substantially all males would be unable to safely and efficiently perform the duties of the position at issue.
2. The Appointing Authority's operation would be undermined by not hiring females exclusively.
3. The Appointing Authority could not accomplish its goals by adopting a less discriminatory practice.

If the request is justified, HRD will issue a selective certification. If the request is denied, the appointing authority will be so notified.

Selective certifications have, in the past, been requested and approved for female public safety officers to allow municipalities to have sufficient shift coverage to ensure the privacy rights of clients within such categories as rape crisis intervention, transportation of female prisoners and search of female prisoners.

Questions relative to the selective certification process may be addressed to Human Resources Division, Civil Service Unit at aacivilservice@massmail.state.ma.us

HUMAN RESOURCES DIVISION REQUEST FOR GENDER-BASED SELECTIVE CERTIFICATION

The following information must be submitted to HRD and MCAD in documentation of this request for a gender-based selective certification. Please provide answers to all questions, including all subsections of #4. HRD encourages the Department to provide data, statistics or documentary evidence where available in support of the request.

MUNICIPALITY: _____

DEPARTMENT: _____

POSITION TITLE : _____

NO. of VACANCIES: _____

REQUISITION NUMBER: _____

1. Total number of employees in this Department: _____
Total number of MALE employed in the position: _____
Total number of FEMALE employed in this position: _____
2. Total number of employees in this position title: _____
Total number of MALE employed in the position: _____
Total number of FEMALE employed in this position: _____
3. Identify other positions in the department that have similar duties to the position in question.
Total number of employees in this/these position(s): _____
Total number of MALE employees in this/these position(s): _____
Total number of FEMALE employees in this/these position(s): _____
Mutual aid from other departments: _____
4. The MCAD had indicated that it will require **three types** of information in a BFOQ analysis:
 1. The factual basis for believing that all or substantially all males would be unable to safely and efficiently perform the duties of the position at issue.
 - a. Written job descriptions or affidavits (sworn statements) describing the specific job position.
 - b. Any other information to support Employer's argument that responsibilities in this job position can only be performed by females in a "safely and efficiently" manner. This type of information in particular should include:
 - i. Duties related to privacy concerns (for example, rape investigations, strip searches);
 - ii. How much time a female employee would spend on these duties;
 - iii. If current staff members in other positions, such as matrons, perform these duties;
 - iv. Duties involving safety of females and how frequently those duties are performed;
 - v. Any historical data proving that male officers have been unable to safely and efficiently perform these duties in the past.
 2. The Appointing Authority's operation would be undermined by not hiring females exclusively. The Employer will be required to provide sufficient evidence to show that the functions of the department will be weakened or disadvantaged if female employees are exclusively hired for the position.
 - a. Historical data indicating that the Employer's business of operation has been undermined or weakened by non-gender based hiring practices.
 - b. Any data-supported projections, plans or predictions regarding the Employer's ability to operate in future absent a selective certification for hiring female employees.

3. The Appointing Authority could not accomplish its goals in any other way.
 - a. The details of the Employer's efforts to explore alternatives to selective certification of female candidates.
 - i. Recruitment efforts directed at female veterans, and other qualified female candidates, and
 - ii. The use of a cadet training program.
 - b. Any data the Employer has gathered which reflect the results of their recruitment efforts.

Name of Contact Person: _____

Title

E-mail Address

Appointing Authority Signature & Title

Date

ATTACH COMPLETED QUESTIONNAIRE AND ANY ATTACHMENTS TO THE ON-LINE REQUISITION